

[Submitting Counsel on Signature Page]

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

IN RE JUUL LABS, INC.,
MARKETING, SALES PRACTICES,
AND PRODUCTS LIABILITY
LITIGATION

Case No. 19-md-02913-WHO

TRIAL TESTIMONY AND EXHIBITS
FROM THE VIDEOTAPED TESTIMONY
OF KEVIN CROSTHWAITE,
CEO/CHAIRMAN OF JUUL, PLAYED AT
TRIAL

This Document Relates to:

*San Francisco Unified School District v.
Juul Labs, Inc. et al.*, Case No. 3:19-cv-
08177

Plaintiff, by and through its undersigned attorneys, hereby docket the following:

1. **Exhibit 1** is a report of the videotaped testimony of Kevin Crosthwaite, CEO/Chairman of JUUL, that was played to the jury on April 27, 2023. The testimony in blue 00:42:58 and light blue 00:00:00 is Plaintiff's affirmative and counter-counter designations.
2. **Exhibit 2**: is a *Joint Stipulation Identifying Trial Exhibits Used In Videotaped Depositions of Kevin Crosthwaite Played at Trial* that sets forth all of the Trial Exhibits from the videotaped testimony of Kevin Crosthwaite admitted into evidence by the Court.

Respectfully submitted,

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EXHIBIT 1

CROSTHWAITE, KEVIN SFUSD

FINAL_PLAYED 04-27-23

Designation List Report



Crosthwaite, Kevin

2021-10-07

Crosthwaite, Kevin

2021-10-08

PLF AFFIRMATIVE

00:42:58

DEF COUNTER

00:07:43

TOTAL RUN TIME

00:50:41



Documents linked to video:

CROSTHWAITE45004

CROSTHWAITE45005

CROSTHWAITE45009

CROSTHWAITE45015

CROSTHWAITE45018

CROSTHWAITE45019

CROSTHWAITE45026

CROSTHWAITE45028

CROSTHWAITE45037

CROSTHWAITE45039

CROSTHWAITE45041

CROSTHWAITE45044

CROSTHWAITE45047

CROSTHWAITE45050

CROSTHWAITE45056





CK_v13 - CROSTHWAITE, KEVIN SFUSD FINAL_PLAYED 04-27-23

DESIGNATION	SOURCE	DURATION	ID
17:16 - 17:21	Crosthwaite, Kevin 2021-10-07_WIT 17:16 BY MS. LONDON: 17:17 Q. Good morning. 17:18 A. Morning. 17:19 Q. Can you please state your full 17:20 name for the record. 17:21 A. Sure, K.C. Crosthwaite.	00:00:08	CK_v13.1
19:21 - 20:05	Crosthwaite, Kevin 2021-10-07_WIT 19:21 Q. So what's your current 19:22 occupation? 19:23 A. I am CEO of JUUL Labs. 19:24 Q. And chairman of the board, 19:25 correct? 20:01 A. And chairman of the board, 20:02 correct. 20:03 Q. Before that you were an 20:04 executive at Altria? 20:05 A. Correct.	00:00:14	CK_v13.2
20:06 - 20:09	Crosthwaite, Kevin 2021-10-07_WIT 20:06 Q. And that was the company that 20:07 used to be known as Philip Morris, correct? 20:08 A. Philip Morris Companies 20:09 technically, but yes.	00:00:08	CK_v13.3
20:10 - 20:23	Crosthwaite, Kevin 2021-10-07_WIT 20:10 Q. Before you were the -- an 20:11 executive at Altria, you were a CEO of Philip 20:12 Morris USA, right? 20:13 A. Correct, I was -- during my 20:14 career at Philip Morris -- excuse me, at 20:15 Altria's family of companies, I was CEO of 20:16 Philip Morris USA. 20:17 Q. Philip Morris USA, that's the 20:18 company that sells Marlboro in America, 20:19 right? 20:20 A. Yes. Philip Morris USA is 20:21 Marlboro, other brands, and also includes the 20:22 John Middleton Company, so there's another 20:23 company in there.	00:00:30	CK_v13.4
20:24 - 21:01	Crosthwaite, Kevin 2021-10-07_WIT	00:00:06	CK_v13.5

CK_v13 - CROSTHWAITE, KEVIN SFUSD FINAL_PLAYED 04-27-23

DESIGNATION	SOURCE	DURATION	ID
	20:24 Q. Do you have any current 20:25 financial interest in Altria? 21:01 A. I do not.		CK_v13.5
21:08 - 21:10	Crosthwaite, Kevin 2021-10-07_WIT 21:08 Q. Do you have any financial 21:09 interest currently in Philip Morris USA? 21:10 A. No, I do not.	00:00:06	CK_v13.6
45:22 - 45:25	Crosthwaite, Kevin 2021-10-07_WIT 45:22 You've been in the nicotine 45:23 delivery business since 1997, right? 45:24 A. I think it was June of 1997 45:25 sounded correct.	00:00:09	CK_v13.7
56:25 - 57:01	Crosthwaite, Kevin 2021-10-07_WIT 56:25 I'm going to go ahead and mark 57:01 as the next numbered exhibit 45004.	00:00:08	CK_v13.8
57:20 - 58:03	Crosthwaite, Kevin 2021-10-07_WIT 57:20 Q. Mr. Crosthwaite, I've put up on the screen Exhibit 45004, and this is a 57:22 version of your LinkedIn page that we had 57:23 downloaded several months ago. 57:24 Do you recognize Exhibit 45004? 57:25 A. Do you mind scrolling down. It 58:01 very well -- I have no reason to think it's 58:02 not, but I just didn't see all of it. 58:03 (Document review.)	00:00:24	CK_v13.9
58:04 - 58:05	Crosthwaite, Kevin 2021-10-07_WIT 58:04 A. That does look like an old 58:05 version of mine.	00:00:03	CK_v13.10
58:16 - 58:18	Crosthwaite, Kevin 2021-10-07_WIT 58:16 You started out as a territory sales manager? 58:17 58:18 A. Correct.	00:00:08	CK_v13.11
61:10 - 61:18	Crosthwaite, Kevin 2021-10-07_WIT 61:10 Q. And what were you told from 61:11 your employer, Philip Morris, about the 61:12 health risks of cigarettes before you went	00:00:28	CK_v13.12

CK_v13 - CROSTHWAITE, KEVIN SFUSD FINAL_PLAYED 04-27-23

DESIGNATION	SOURCE	DURATION	ID
	61:13 out to sell them?		
	61:14 A. I don't recall the specific		
	61:15 training that I went through in 1997. I		
	61:16 can't characterize or speak to what I was		
	61:17 told in a training. I just don't remember		
	61:18 it.		
65:24 - 66:04	Crosthwaite, Kevin 2021-10-07_WIT	00:00:13	CK_v13.13
 Clear	65:24 Q. At some point in time you've		
	65:25 come to become familiar with the 1988 Surgeon		
	66:01 General's report, right?		
	66:02 A. Yeah, I'd have to look back		
	66:03 over it again, but I do recall in the past		
	66:04 having been familiar with it.		
66:05 - 66:11	Crosthwaite, Kevin 2021-10-07_WIT	00:00:03	CK_v13.14
 CROSTHWAITE45005.1.1	66:05 Q. Okay. Why don't we pull up		
	66:06 Demonstrative B.		
	66:07 (Whereupon, Deposition Exhibit		
	66:08 Crosthwaite-45005, Demonstrative,		
	66:09 Excerpt from 1988 Surgeon General		
	66:10 Report, was marked for		
	66:11 identification.)		
66:16 - 66:21	Crosthwaite, Kevin 2021-10-07_WIT	00:00:16	CK_v13.15
	66:16 Q. Mr. Crosthwaite, I've put up on		
	66:17 the screen to refresh your memory a		
	66:18 demonstrative showing the major conclusions		
	66:19 of the 1988 Surgeon General's report.		
	66:20 You see that?		
	66:21 A. Yes, I see it.		
68:03 - 68:07	Crosthwaite, Kevin 2021-10-07_WIT	00:00:14	CK_v13.16
	68:03 You do know that for many, many		
	68:04 years, Philip Morris denied that its		
	68:05 cigarettes were addictive, right?		
	68:06 A. Yes, that is my understanding		
	68:07 of the past in the company.		
68:08 - 68:11	Crosthwaite, Kevin 2021-10-07_WIT	00:00:10	CK_v13.17
	68:08 Q. And at some point that position		
	68:09 changed, right?		
	68:10 A. Correct. I just can't recall		

CK_v13 - CROSTHWAITE, KEVIN SFUSD FINAL_PLAYED 04-27-23

DESIGNATION	SOURCE	DURATION	ID
	68:11 exactly when that position changed.		
71:25 - 72:22	Crosthwaite, Kevin 2021-10-07_WIT	00:01:05	CK_v13.18
	71:25 A. So I haven't reviewed this		
	72:01 whole document, but I have no reason to		
	72:02 disagree with the conclusion of the Surgeon		
	72:03 General.		
	72:04 BY MS. LONDON:		
 CROSTHWAITE E45005.1.2	72:05 Q. One of those conclusions is		
	72:06 that the pharmacologic and behavioral		
	72:07 processes that determine nicotine addiction		
	72:08 are similar to those that determine addiction		
	72:09 to drugs such as heroin and cocaine.		
	72:10 With that specific conclusion,		
	72:11 has Philip Morris ever admitted to that to		
	72:12 your knowledge?		
	72:13 A. To my knowledge, I'm not aware		
	72:14 if they have had an admission to conclusion		
	72:15 number 3.		
	72:16 Q. And as the CEO of JUUL Labs,		
	72:17 you will agree with it, though, right?		
	72:18 A. I can tell you I can't speak		
	72:19 to, again, whether or not number 3, as CEO of		
	72:20 JUUL Labs, is just not something that we have		
	72:21 looked at or studied. It's difficult for me		
	72:22 to make the conclusion for e-vapor, JUUL.		
76:19 - 76:22	Crosthwaite, Kevin 2021-10-07_WIT	00:00:08	CK_v13.19
 CROSTHWAITE E45004.2.2	76:19 Q. So you moved up from a		
	76:20 territory sales manager to managing other		
	76:21 territory sales managers, right?		
	76:22 A. Correct.		
79:04 - 79:07	Crosthwaite, Kevin 2021-10-07_WIT	00:00:10	CK_v13.20
 CROSTHWAITE E45004.2.3	79:04 Q. Then you were promoted again,		
	79:05 so you must have been successful, right?		
	79:06 A. I like to think so. Yes, I was		
	79:07 then a district manager --		
82:04 - 82:10	Crosthwaite, Kevin 2021-10-07_WIT	00:00:26	CK_v13.21

CK_v13 - CROSTHWAITE, KEVIN SFUSD FINAL_PLAYED 04-27-23

DESIGNATION	SOURCE	DURATION	ID
 CROSTHWAITE45004.2.4	82:04 Q. What was your next role?		CK_v13.21
	82:05 A. At that time I moved to		
	82:06 New York City and worked in the corporate --		
	82:07 sorry -- worked in the corporate headquarters		
	82:08 and moved into the brand management		
	82:09 organization as the director of Marlboro New		
 Clear	82:10 Products.		
	96:17 - 96:21 Crosthwaite, Kevin 2021-10-07_WIT	00:00:18	CK_v13.22
	96:17 Q. And, Mr. Crosthwaite, we talked		
	96:18 about people just starting to smoke and		
	96:19 experimenting. What's your understanding of		
	96:20 when most people first begin to start		
96:24 - 97:03	96:21 smoking? How old are they?		
	Crosthwaite, Kevin 2021-10-07_WIT	00:00:16	CK_v13.23
	96:24 A. I can't give you a concrete		
	96:25 answer to when exactly the age is that		
	97:01 someone starts smoking. Generally it's, you		
	97:02 know, younger adult versus an older adult,		
97:15 - 97:17	97:03 but that's my understanding.		
	Crosthwaite, Kevin 2021-10-07_WIT	00:00:06	CK_v13.24
	97:15 Is it your		
	97:16 testimony that most Americans first begin		
97:20 - 97:22	97:17 smoking over the age of 21?		
	Crosthwaite, Kevin 2021-10-07_WIT	00:00:10	CK_v13.25
	97:20 A. Yeah, so it is my understanding		
	97:21 that, you know, most that start using		
97:24 - 98:05	97:22 cigarettes do so when they're 18 and over.		
	Crosthwaite, Kevin 2021-10-07_WIT	00:00:03	CK_v13.26
	97:24 Q. I'm going to draw your		
	97:25 attention to Demonstrative K.		
 CROSTHWAITE45009.1.1	98:01 (Whereupon, Deposition Exhibit		
	98:02 Crosthwaite-45009, Demonstrative,		
	98:03 Excerpt from 2012 Surgeon General		
	98:04 Report, was marked for		
	98:05 identification.)		
98:08 - 98:18	Crosthwaite, Kevin 2021-10-07_WIT	00:00:24	CK_v13.27
	98:08 Q. Mr. Crosthwaite, you're		

CK_v13 - CROSTHWAITE, KEVIN SFUSD FINAL_PLAYED 04-27-23

DESIGNATION	SOURCE	DURATION	ID
	98:09 familiar, of course, with the 2012 Surgeon		
	98:10 General's report on Preventing Tobacco Use		
	98:11 Among Youth and young Adults, right?		
	98:12 A. I'd have to refresh my memory		
	98:13 on this 2012 report.		
	98:14 Q. You have seen it though,		
	98:15 correct?		
	98:16 A. I do recall at some point		
	98:17 having looked at it, but I would have to		
	98:18 refresh my memory to get through it.		
101:24 - 101:25	Crosthwaite, Kevin 2021-10-07_WIT	00:00:04	CK_v13.28
	101:24 Q. Now, this report is talking		
	101:25 about --		
102:02 - 102:10	Crosthwaite, Kevin 2021-10-07_WIT	00:00:21	CK_v13.29
 CROSTHWAITE45009.1.2	102:02 Q. -- preventing tobacco use among		
	102:03 youth and young adults, and it states:		
	102:04 Prevention efforts must focus on both		
	102:05 adolescents and young adults because among		
	102:06 adults who become daily smokers, nearly all		
	102:07 first use of cigarettes occurs by 18 years of		
	102:08 age.		
	102:09 Do you see that?		
	102:10 A. I do.		
102:11 - 102:16	Crosthwaite, Kevin 2021-10-07_WIT	00:00:12	CK_v13.30
	102:11 Q. The 88%. And then with 99% of		
	102:12 first use by 26 years of age.		
	102:13 Do you see that?		
	102:14 A. I do see it.		
	102:15 Q. Is that surprising information		
	102:16 to you?		
102:19 - 102:20	Crosthwaite, Kevin 2021-10-07_WIT	00:00:04	CK_v13.31
	102:19 A. No, I don't -- I wouldn't		
	102:20 characterize that as surprising to me.		
129:19 - 130:06	Crosthwaite, Kevin 2021-10-07_WIT	00:00:37	CK_v13.32
 CROSTHWAITE45004.2.5	129:19 Q. So you moved on to become the		
	129:20 director of Marlboro Smokeless. Was that		
	129:21 lateral or a promotion?		



CK_v13 - CROSTHWAITE, KEVIN SFUSD FINAL_PLAYED 04-27-23

DESIGNATION	SOURCE	DURATION	ID
	129:22 A. It was a lateral move.		
	129:23 Q. And tell me, please, what were		
	129:24 your responsibilities as the director of		
	129:25 Marlboro Smokeless?		
	130:01 A. Yeah, so at that time, Marlboro		
	130:02 did not really have any noncombustion product		
	130:03 in the portfolio. So we were looking at		
	130:04 noncombustion smokeless alternatives to		
	130:05 combustion cigarettes. And I worked on that		
	130:06 project.		
146:16 - 146:22	Crosthwaite, Kevin 2021-10-07_WIT	00:00:22	CK_v13.33
 CROSTHWAITE45004.1.2	146:16 Q. in		
	146:17 December of 2013, you came back into Philip		
	146:18 Morris USA, right?		
	146:19 A. Yes, I think that is correct.		
	146:20 Q. And you were the vice president		
	146:21 and general manager of Marlboro?		
	146:22 A. Correct.		
150:12 - 150:15	Crosthwaite, Kevin 2021-10-07_WIT	00:00:12	CK_v13.34
 CROSTHWAITE45004.1.3	150:12 Q. So your next assignment was the		
	150:13 vice president of strategy and business		
	150:14 development for Altria overall, right?		
	150:15 A. Correct.		
151:14 - 151:17	Crosthwaite, Kevin 2021-10-07_WIT	00:00:12	CK_v13.35
 CROSTHWAITE45004.1.4	151:14 Q. then you were moved on		
	151:15 from the strategy group to Philip Morris USA		
	151:16 as their CEO, right?		
	151:17 A. Correct.		
152:24 - 153:05	Crosthwaite, Kevin 2021-10-07_WIT	00:00:17	CK_v13.36
	152:24 Q. All right. Now, let's talk		
	152:25 about your role as the CEO of Philip Morris		
 Clear	153:01 There you ran the cigarette and cigar		
	153:02 business, right?		
	153:03 A. Correct. So Philip Morris USA		
	153:04 did include the combustion business and the		
	153:05 machine-made cigar business.		





CK_v13 - CROSTHWAITE, KEVIN SFUSD FINAL_PLAYED 04-27-23

DESIGNATION	SOURCE	DURATION	ID
153:12 - 153:16	Crosthwaite, Kevin 2021-10-07_WIT 153:12 Q. Okay. Now, as the CEO of 153:13 Philip Morris USA, you certainly understood 153:14 the harm that combustible cigarettes cause to 153:15 both people and the country of America, 153:16 right?	00:00:12	CK_v13.37
153:20 - 153:21	Crosthwaite, Kevin 2021-10-07_WIT 153:20 A. Yes. I was aware of the harm 153:21 caused from consumers that use cigarettes.	00:00:07	CK_v13.38
156:24 - 157:05	Crosthwaite, Kevin 2021-10-07_WIT 156:24 Q. And Marlboro had sales that 156:25 were greater than the next seven leading 157:01 competitors combined. 157:02 Do you recall that? 157:03 A. That's -- that sounds about 157:04 right. I'm just doing the math in my head, 157:05 but that sounds about right.	00:00:15	CK_v13.39
159:25 - 160:02	Crosthwaite, Kevin 2021-10-07_WIT 159:25 Q. Marlboro has long been and 160:01 still is the most popular cigarette brand 160:02 among adolescents, correct?	00:00:08	CK_v13.40
160:05 - 160:12	Crosthwaite, Kevin 2021-10-07_WIT 160:05 A. Yes, I don't know what the 160:06 recent numbers are for Marlboro. Marlboro 160:07 being the largest brand among adults 160:08 certainly has ended up in the past in the 160:09 hands of underage consumers, just given the 160:10 sheer size and availability of Marlboro, but 160:11 I can't speak to exactly where that sits 160:12 today.	00:00:20	CK_v13.41
160:14 - 160:18	Crosthwaite, Kevin 2021-10-07_WIT 160:14 Q. when 160:15 you were the CEO of Philip Morris USA, did 160:16 you have any understanding as to whether 160:17 Marlboro was the most popular cigarette among 160:18 adolescents at that time?	00:00:11	CK_v13.42
160:20 - 160:21	Crosthwaite, Kevin 2021-10-07_WIT 160:20 A. So as CEO, it's not something I	00:00:06	CK_v13.43

CK_v13 - CROSTHWAITE, KEVIN SFUSD FINAL_PLAYED 04-27-23

DESIGNATION	SOURCE	DURATION	ID
	160:21 studied as CEO of PM USA.		
162:02 - 162:10	Crosthwaite, Kevin 2021-10-07_WIT	00:00:21	CK_v13.44
	162:02 Q. But do you have any		
	162:03 basis to disagree with that statement?		
	162:04 A. I have no basis to disagree		
	162:05 with your statement.		
	162:06 Q. Philip Morris has earned more		
	162:07 revenue from cigarettes smoked by American		
	162:08 kids than all other tobacco companies		
	162:09 combined.		
	162:10 Do you agree?		
162:13 - 162:18	Crosthwaite, Kevin 2021-10-07_WIT	00:00:14	CK_v13.45
	162:13 A. I have no doubt that Philip		
	162:14 Morris USA, given the size of it, at times,		
	162:15 its products got in the hands of an underage		
	162:16 consumer. I can't quantify to your		
	162:17 example -- I can't speak to it with		
	162:18 certainty.		
177:21 - 177:23	Crosthwaite, Kevin 2021-10-07_WIT	00:00:08	CK_v13.46
 CROSTHWAITE45004.1.5	177:21 Your next move was the chief		
	177:22 growth officer of Altria?		
	177:23 A. I believe that is correct.		
178:17 - 179:09	Crosthwaite, Kevin 2021-10-07_WIT	00:00:42	CK_v13.47
	178:17 Q. Okay. So as chief growth		
	178:18 officer, you were hired by Howard Willard?		
	178:19 A. Yeah, I reported to Howard		
	178:20 Willard. I was already -- yes, I was in the		
	178:21 company and I reported to Howard.		
	178:22 Q. All right. Now, as chief		
	178:23 growth officer, I want to talk about some of		
	178:24 your responsibilities there.		
 Clear	178:25 You led the team that		
	179:01 negotiated Altria's \$12.8 billion investment		
	179:02 in JUUL that allowed Altria to take an		
	179:03 ownership position in the leading U.S. vapor		
	179:04 company, right?		
	179:05 A. I would not -- I would not		
	179:06 characterize I led the team negotiating. I		

CK_v13 - CROSTHWAITE, KEVIN SFUSD FINAL_PLAYED 04-27-23

DESIGNATION	SOURCE	DURATION	ID
	179:07 was not in that -- had that authority or 179:08 tasked in that capacity as leading the 179:09 negotiation with JLI.		
184:21 - 184:25	Crosthwaite, Kevin 2021-10-07_WIT	00:00:11	CK_v13.48
 CROSTHWAITE45015.1.1	184:21 Q. So I'm going to show you what's 184:22 been marked as the 2019 Notice of Annual 184:23 Meeting of Shareholders and Proxy Statement. 184:24 Do you see that? 184:25 A. I do see that.		
189:11 - 189:12	Crosthwaite, Kevin 2021-10-07_WIT	00:00:04	CK_v13.49
 CROSTHWAITE45015.44.1	189:11 Q. Okay. I'm going to draw your 189:12 attention now to page 31. There you are,		
189:13 - 189:14	Crosthwaite, Kevin 2021-10-07_WIT	00:00:05	CK_v13.50
 CROSTHWAITE45015.44.2	189:13 right? 189:14 A. Yes.		
189:23 - 189:24	Crosthwaite, Kevin 2021-10-07_WIT	00:00:04	CK_v13.51
 CROSTHWAITE45015.44.3	189:23 Q. Okay. So under the 2018 189:24 accomplish -- achievements, it says:		
190:08 - 190:19	Crosthwaite, Kevin 2021-10-07_WIT	00:00:29	CK_v13.52
	190:08 Q. Led the 190:09 team that negotiated our \$12.8 billion 190:10 investment in JUUL, representing a 35% 190:11 economic interest, thereby taking an 190:12 ownership position in the leading U.S. 190:13 e-vapor company with significant exposure to 190:14 international growth plans. 190:15 That was another one of your 190:16 2018 achievements, correct? 190:17 A. That's what -- yes, I would 190:18 agree that that was an accomplishment in 190:19 2018.		
203:09 - 203:12	Crosthwaite, Kevin 2021-10-07_WIT	00:00:17	CK_v13.53
	203:09 Q. Now, in early 2019, you were 203:10 promoted again within Altria, right? 203:11 A. Early 2019, I think I -- I		

CK_v13 - CROSTHWAITE, KEVIN SFUSD FINAL_PLAYED 04-27-23

DESIGNATION	SOURCE	DURATION	ID
	203:12 believe my grade level changed.		
207:06 - 207:19	Crosthwaite, Kevin 2021-10-07_WIT	00:00:50	CK_v13.54
	207:06 Q. Now, in the role you had as the		
	207:07 chief growth officer, you were responsible		
	207:08 for overseeing the overall return on Altria's		
	207:09 investment in JUUL, right?		
	207:10 A. Well, I don't know if I would		
	207:11 characterize it as the overall return. Are		
	207:12 you talking about post the investment time		
	207:13 period?		
	207:14 Q. Yes.		
	207:15 A. So Altria had no control over		
	207:16 JUUL. So there was, in essence, nothing I		
	207:17 could control. My role after the investment		
	207:18 was a board observer, and I was involved with		
	207:19 the early discussions on service agreements.		
215:12 - 215:16	Crosthwaite, Kevin 2021-10-07_WIT	00:00:14	CK_v13.55
 CROSTHWAITE45004.1.6	215:12 your next		
	215:13 role after growth officer at Altria was the		
	215:14 CEO of JUUL in September of 2019, right?		
	215:15 A. Yes, after I resigned from		
	215:16 Altria, I became CEO of JUUL.		
216:20 - 217:02	Crosthwaite, Kevin 2021-10-07_WIT	00:00:22	CK_v13.56
 Clear	216:20 Q. Mr. Crosthwaite, did JUUL		
	216:21 target youth with its marketing?		
	216:22 A. So, Ms. London, from my time as		
	216:23 CEO of JUUL, I have had a chance to go back		
	216:24 and look at the company's past marketing		
	216:25 executions, and I have not seen anywhere		
	217:01 where the company intentionally marketed to		
	217:02 youth.		
227:05 - 227:06	Crosthwaite, Kevin 2021-10-07_WIT	00:00:05	CK_v13.57
 CROSTHWAITE45018.1.3	227:05 Q. I'm pulling up for you the		
	227:06 Surgeon General's report of 2012.		
227:07 - 227:16	Crosthwaite, Kevin 2021-10-07_WIT	00:00:26	CK_v13.58
	227:07 I want to		
	227:08 talk to you about some additional conclusions		

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DESIGNATION	SOURCE	DURATION	ID
	227:09 here.		
	227:10 Now, the Surgeon General of the		
	227:11 United States, they actually went back and		
	227:12 looked at documents from your company when		
	227:13 you were there, Philip Morris, and other		
	227:14 tobacco companies, and they studied the		
	227:15 question of whether Philip Morris and other		
	227:16 companies targeted youth. Correct?		
227:20 - 227:23	Crosthwaite, Kevin 2021-10-07_WIT	00:00:07	CK_v13.59
	227:20 A. They very well could have,		
	227:21 Ms. London. I'm just not -- I'm not as		
	227:22 familiar with what studies they did in this		
	227:23 report.		
228:08 - 228:22	Crosthwaite, Kevin 2021-10-07_WIT	00:00:34	CK_v13.60
	228:08 Q. So I want to just		
 CROSTHWAITE45018.1.1	228:09 draw your attention to the first sentence.		
	228:10 It says: There is strong empirical evidence,		
	228:11 along with the tobacco industry's own		
	228:12 internal documents and trial testimony, as		
	228:13 well as widely accepted principles of		
	228:14 advertising and marketing, that support the		
	228:15 conclusion that tobacco manufacturers'		
	228:16 advertising, marketing and promotions recruit		
	228:17 new users as youth and continue to reinforce		
	228:18 use as young adults.		
	228:19 Do you see that?		
	228:20 A. I see what it says.		
	228:21 Q. And do you have any basis to		
	228:22 disagree with that?		
228:25 - 229:20	Crosthwaite, Kevin 2021-10-07_WIT	00:00:53	CK_v13.61
	228:25 A. Yeah, I'm -- I have no -- I'm		
	229:01 not familiar with what exactly this looked at		
	229:02 to come to this conclusion, so I -- sitting		
	229:03 here, I don't have a reason to disagree with		
	229:04 what the Surgeon General report says, but I'm		
	229:05 just not familiar with what was looked at.		
	229:06 BY MS. LONDON:		
 CROSTHWAITE45018.1.4	229:07 Q. And it goes on to say:		

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DESIGNATION	SOURCE	DURATION	ID
	229:08 Hence, despite claims from cigarette 229:09 manufacturers that marketing and promotion of 229:10 their products are intended to increase 229:11 market share and promote brand loyalty among 229:12 adult consumers, the evidence presented in 229:13 this chapter is sufficient to conclude that 229:14 marketing efforts and promotion by tobacco 229:15 companies show a consistent dose-response 229:16 relationship in the initiation and 229:17 progression of tobacco use among young 229:18 people. 229:19 Do you see that? 229:20 A. I'm just reading. I see it.		
230:16 - 230:20  Clear	Crosthwaite, Kevin 2021-10-07_WIT 230:16 Q. Would you agree with me that 230:17 young adults are a prime target for tobacco 230:18 marketing because messages that are aimed at 230:19 that group also attract the attention of 230:20 younger customers?	00:00:10	CK_v13.62
230:24 - 231:14	Crosthwaite, Kevin 2021-10-07_WIT 230:24 A. So first I would say, first and 230:25 foremost, we're talking about creating 231:01 communications to existing consumers, adult 231:02 smokers. And if I misunderstood your 231:03 question, I just wanted to be clear so -- and 231:04 I can't speak to the other tobacco companies, 231:05 but at my time at Altria or Philip Morris 231:06 USA, it was always about communications 231:07 designed for existing cigarette consumers. 231:08 MS. LONDON: And I want to pull 231:09 up Demonstrative H. 231:10 (Whereupon, Deposition Exhibit 231:11 Crosthwaite-45019, Demonstrative, 231:12 Excerpt from 2012 Surgeon General 231:13 Report, was marked for 231:14 identification.)	00:00:37	CK_v13.63
 CROSTHWAITE E45019.1.1	232:06 Q. JUUL Labs, it defers to the 232:07 expertise of the Surgeon General when it	00:00:33	CK_v13.64

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DESIGNATION	SOURCE	DURATION	ID
	232:08 comes to matters of smoking and health, 232:09 right? 232:10 A. Yeah. We encourage consumers 232:11 to refer to the Surgeon General, CDC, FDA, 232:12 for matters like that. 232:13 Q. Okay. So I'm showing you a 232:14 portion of the CDC's booklet that came out 232:15 with the 2012 Surgeon General's report. It 232:16 says: We can make the next generation 232:17 tobacco free. 232:18 Do you see that cover?		
 CROSTHWAITE45019.1.2	Crosthwaite, Kevin 2021-10-07_WIT 233:04 A. Yes, I see that. 233:05 Q. Now, according to the CDC and 233:06 the Surgeon General here, it states: Why the 233:07 industry targets young people. It says: 233:08 Young people are a prime market for tobacco 233:09 products. 233:10 You agree with that?	00:00:17	CK_v13.65
 CROSTHWAITE45019.1.3	Crosthwaite, Kevin 2021-10-07_WIT 233:20 A. So when this document -- when I 233:21 read that sentence you've highlighted, "Young 233:22 people are a prime market for tobacco 233:23 products," I don't necessarily agree with 233:24 that.	00:00:10	CK_v13.66
 CROSTHWAITE45019.1.4	Crosthwaite, Kevin 2021-10-07_WIT 234:02 Q. Okay. Now let's go on to the 234:03 next sentence: With smoking among adults 234:04 declining, tobacco makers need to replace 234:05 long-term users who have quit or died. 234:06 Do you agree with that?	00:00:10	CK_v13.67
	Crosthwaite, Kevin 2021-10-07_WIT 234:10 A. Yeah, from my time at Philip 234:11 Morris USA, we were not trying to turn a 234:12 nonuser of cigarettes into a new user of 234:13 cigarettes.	00:00:11	CK_v13.68

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DESIGNATION	SOURCE	DURATION	ID
234:15 - 235:04	Crosthwaite, Kevin 2021-10-07_WIT	00:00:36	CK_v13.69
 CROSTHWAITE E45019.1.5	<p>234:15 Q. It goes on to say: So the</p> <p>234:16 tobacco industry recruits replacement smokers</p> <p>234:17 from youth and young adults, the age groups</p> <p>234:18 in which 99% of tobacco use begins.</p> <p>234:19 Do you agree?</p> <p>234:20 A. From my experience, I don't</p> <p>234:21 agree that that is what I would say took</p> <p>234:22 place when I was at PM USA, that we were</p> <p>234:23 recruiting nonusers and youth into the</p> <p>234:24 cigarette business.</p>		
 CROSTHWAITE E45019.1.6	<p>234:25 Q. And it goes on to say: Young</p> <p>235:01 adults are a prime target for tobacco</p> <p>235:02 advertising and marketing.</p> <p>235:03 I take it you disagree with</p> <p>235:04 that, right?</p>		
235:07 - 235:23	Crosthwaite, Kevin 2021-10-07_WIT	00:00:50	CK_v13.70
	<p>235:07 A. Young adult smokers were an</p> <p>235:08 audience that was relevant to -- at least for</p> <p>235:09 my experience at PM USA, but not young adults</p> <p>235:10 who are not currently using tobacco products.</p> <p>235:11 BY MS. LONDON:</p>		
 CROSTHWAITE E45019.1.7	<p>235:12 Q. Okay. It goes on to say: And</p> <p>235:13 messages aimed at this age group also attract</p> <p>235:14 the attention of younger consumers, a plus</p> <p>235:15 for the tobacco industry.</p> <p>235:16 Agree?</p> <p>235:17 A. Well, again, I don't have a</p> <p>235:18 reason to disagree with who's writing this</p> <p>235:19 report. I can just speak to my experience.</p> <p>235:20 I don't -- I don't agree in the</p> <p>235:21 fact from what I witnessed and was a part of</p> <p>235:22 at PM USA, we did not want to attract young</p> <p>235:23 consumers who were not cigarette consumers.</p>		
236:11 - 236:18	Crosthwaite, Kevin 2021-10-07_WIT	00:00:19	CK_v13.71
 Clear	<p>236:11 BY MS. LONDON:</p> <p>236:12 Q. At some point along the way in</p>		




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DESIGNATION	SOURCE	DURATION	ID
	236:13 your tenure at Philip Morris, you became 236:14 aware that cigarette -- the current number of 236:15 cigarette smokers had been declining for some 236:16 time, right? 236:17 A. Yes, the cigarette volume has 236:18 been declining for quite some time.		
244:17 - 245:03  Clear	Crosthwaite, Kevin 2021-10-07_WIT 244:17 Q. So shortly after you joined, 244:18 Philip Morris reached a settlement agreement 244:19 with attorneys general across the country, 244:20 and it was known as the Master Settlement 244:21 Agreement, right? 244:22 A. That is my understanding. 244:23 Q. And that was in 1998? 244:24 A. As well my understanding, yes. 244:25 Q. Now, as part of the Master 245:01 Settlement Agreement, it banned certain 245:02 conduct from the industry to protect kids 245:03 against nicotine addiction, right?	00:00:29	CK_v13.72
245:06 - 245:15	Crosthwaite, Kevin 2021-10-07_WIT 245:06 A. So to me, the Master Settlement 245:07 Agreement had many aspects to it, including 245:08 limitations on advertising vehicles that 245:09 could be used for cigarette products. 245:10 BY MS. LONDON: 245:11 Q. And the reason that the Master 245:12 Settlement Agreement restricted the use of 245:13 those practices is because those practices 245:14 could cause kids to become addicted to 245:15 nicotine, right?	00:00:26	CK_v13.73
245:17 - 246:03	Crosthwaite, Kevin 2021-10-07_WIT 245:17 A. I think the spirit of those 245:18 limitations were wanting to minimize 245:19 unintended audiences from seeing cigarette 245:20 advertising. 245:21 BY MS. LONDON: 245:22 Q. The unintended audiences would 245:23 be young people, right? 245:24 A. Well, under legal age and 245:25 nonsmokers I would characterize as not being	00:00:27	CK_v13.74




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DESIGNATION	SOURCE	DURATION	ID
	246:01 a target audience, but not necessarily just		
	246:02 young, because there are young smokers of		
	246:03 age, legal age.		
251:05 - 251:12	Crosthwaite, Kevin 2021-10-07_WIT	00:00:18	CK_v13.75
	251:05 is it correct that under the Master		
	251:06 Settlement Agreement, tobacco companies would		
	251:07 be banned from conduct that directly or		
	251:08 indirectly targets youth?		
	251:09 A. That is my understanding, that		
	251:10 cigarette manufacturers with the MSA would		
	251:11 not target -- be able to target underage		
	251:12 consumers.		
278:01 - 278:06	Crosthwaite, Kevin 2021-10-07_WIT	00:00:15	CK_v13.76
	278:01 BY MS. LONDON:		
	278:02 Q. Mr. Crosthwaite, moving along		
	278:03 in time, in 2009, Congress passed a law		
	278:04 called the Tobacco Control Act.		
	278:05 Do you recall that?		
	278:06 A. I do.		
278:15 - 278:17	Crosthwaite, Kevin 2021-10-07_WIT	00:00:04	CK_v13.77
	278:15 BY MS. LONDON:		
	278:16 Q. Okay. So let's pull up		
 CROSTHWAITE E45026.1.1	278:17 Demonstrative -- I think it's AG.		
279:03 - 279:11	Crosthwaite, Kevin 2021-10-07_WIT	00:00:20	CK_v13.78
 CROSTHWAITE E45026.1.2	279:03 It states: Advertising,		
	279:04 marketing and promotion of tobacco products		
	279:05 have been especially directed to attract		
	279:06 young persons to use tobacco products, and		
	279:07 these efforts have resulted in increased use		
	279:08 of such products by youth.		
	279:09 Do you see that?		
	279:10 A. I see what it says there in		
	279:11 number 15.		
279:12 - 279:21	Crosthwaite, Kevin 2021-10-07_WIT	00:00:27	CK_v13.79
	279:12 Q. Now, this is in 2009, and this		
	279:13 is ten years after the Master Settlement		
	279:14 Agreement, right?		

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DESIGNATION	SOURCE	DURATION	ID
 CROSTHWAITE E45026.1.4	279:15 A. Yes, seems about right, ten		
	279:16 years.		
	279:17 Q. It goes on to say: Past		
	279:18 efforts to oversee these activities have not		
	279:19 been successful in adequately preventing such		
	279:20 increased youth -- use, right?		
	279:21 A. That is what it says.		
282:24 - 283:04	Crosthwaite, Kevin 2021-10-07_WIT	00:00:13	CK_v13.80
 Clear	282:24 Q. Okay. Now, tobacco companies		
	282:25 under the Tobacco Control Act, they could no		
	283:01 longer sell cigarettes with any		
	283:02 characterizing flavors, other than tobacco		
	283:03 and menthol, right?		
	283:04 A. That is my understanding.		
283:25 - 284:02	Crosthwaite, Kevin 2021-10-07_WIT	00:00:08	CK_v13.81
	283:25 Q. Okay. And these measures were		
	284:01 put in place in the Tobacco Control Act to		
	284:02 protect kids from tobacco use, right?		
284:05 - 284:09	Crosthwaite, Kevin 2021-10-07_WIT	00:00:09	CK_v13.82
	284:05 A. I think the Tobacco Control		
	284:06 Act, you know, was -- was put in place		
	284:07 because it was what Congress thought was the		
	284:08 right, you know, framework to be putting in		
	284:09 place.		
284:18 - 284:22	Crosthwaite, Kevin 2021-10-07_WIT	00:00:17	CK_v13.83
	284:18 Q. Now, after 2009, Philip Morris		
	284:19 continued to develop new Marlboro products as		
	284:20 part of its line extensions, right?		
	284:21 A. Yeah, I believe the company		
	284:22 continued to work on its products.		
290:25 - 291:13	Crosthwaite, Kevin 2021-10-07_WIT	00:00:35	CK_v13.84
 CROSTHWAITE E45028.1.3	290:25 Q. All right. Mr. Crosthwaite,		
	291:01 I'm pulling up what's been marked as 45028,		
	291:02 and this is an article in the Wall Street		
	291:03 Journal from November 28th of 2016. And this		
	291:04 has some images that are of Marlboro Black		
	291:05 cartons.		

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DESIGNATION	SOURCE	DURATION	ID
 CROSTHWAITE45028.1.2	291:06 Do you see that?		
	291:07 A. Yes, I do.		
	291:08 Q. Now, the article states: In		
	291:09 the five years since Marlboro Black was		
	291:10 introduced, it has done a lot to help Philip		
	291:11 Morris USA with its millennial problem.		
	291:12 Do you see that?		
	291:13 A. Yes, I see that.		
292:07 - 292:17	Crosthwaite, Kevin 2021-10-07_WIT	00:00:25	CK_v13.85
 CROSTHWAITE45028.2.1	292:07 Q. And I want to point you to,		
 CROSTHWAITE45028.2.2	292:08 under the word "Subscribe." It says: The		
	292:09 lower-priced cigarette offers what the		
	292:10 company calls a bold, modern take on		
	292:11 Marlboro -- think tattoos, black jeans and		
	292:12 motorcycles instead of Stetsons, blue jeans		
	292:13 and horses. It is marketed to young adults		
	292:14 with direct mail that looks more like a VIP		
	292:15 party invitation - black rimmed with white -		
	292:16 than junk mail.		
	292:17 Do you see that?		
293:02 - 293:03	Crosthwaite, Kevin 2021-10-07_WIT	00:00:03	CK_v13.86
	293:02 A. I'm sorry, Ms. London, I was --		
	293:03 yes, I do see what you highlighted.		
296:15 - 296:15	Crosthwaite, Kevin 2021-10-07_WIT	00:00:05	CK_v13.87
 CROSTHWAITE45028.2.3	296:15 So if you go to the third		
296:16 - 297:02	Crosthwaite, Kevin 2021-10-07_WIT	00:00:34	CK_v13.88
	296:16 paragraph there, it says: In the five years		
	296:17 since Marlboro Black was introduced, it has		
	296:18 done a lot to help Philip Morris USA with its		
	296:19 millennial problem. About 85% of young		
	296:20 adults don't smoke. Many who do smoke don't		
	296:21 like Marlboro. Its market share plunged		
	296:22 9 percentage points to 43% between 2005 and		
	296:23 2011, according to data on 18- to 25-year-old		
	296:24 smokers from the National Survey on Drug Use		

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DESIGNATION	SOURCE	DURATION	ID
	296:25 and Health.		
	297:01 Does that square with your		
	297:02 recollection, Mr. Crosthwaite?		
297:19 - 297:21	Crosthwaite, Kevin 2021-10-07_WIT	00:00:10	CK_v13.89
	297:19 A. I think it sounds generally		
	297:20 accurate. I'm just not -- again, I'm just		
	297:21 not familiar with that particular survey.		
297:23 - 298:06	Crosthwaite, Kevin 2021-10-07_WIT	00:00:21	CK_v13.90
 CROSTHWAITE45028.2.4	297:23 Q. It goes on to say: But Black		
	297:24 has breathed life into Marlboro. Since		
	297:25 grabbing more than 1% of U.S. cigarette		
	298:01 market share in its first year, the brand has		
	298:02 helped Marlboro reach an all-time high of		
	298:03 44.1% market share, according to Philip		
	298:04 Morris USA owner Altria Group.		
	298:05 Do you see that?		
	298:06 A. I do see that.		
299:24 - 300:02	Crosthwaite, Kevin 2021-10-07_WIT	00:00:10	CK_v13.91
 CROSTHWAITE45028.2.6	299:24 Q. she states: It's making		
	299:25 Marlboro relevant again. Right, that's what		
	300:01 she said about Marlboro Black?		
	300:02 A. That's what this says here.		
300:03 - 300:06	Crosthwaite, Kevin 2021-10-07_WIT	00:00:13	CK_v13.92
 CROSTHWAITE45028.2.7	300:03 Q. Ms. Herzog estimates 1%		
	300:04 market share is worth about \$320 million in		
	300:05 annual revenue for Altria, right?		
	300:06 A. That is what it says.		
317:06 - 317:11	Crosthwaite, Kevin 2021-10-07_WIT	00:00:15	CK_v13.93
 Clear	317:06 Q. Mr. Crosthwaite, is it your		
	317:07 testimony that Altria had no control over		
	317:08 JUUL?		
	317:09 A. So Altria is a minority		
	317:10 shareholder in JUUL and they do not have		
	317:11 control over the company.		
321:03 - 321:25	Crosthwaite, Kevin 2021-10-07_WIT	00:01:01	CK_v13.94
	321:03 Long before Altria invested in		

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DESIGNATION	SOURCE	DURATION	ID
	321:04 JUUL, Altria saw that the future in tobacco		
	321:05 products would depend on harnessing		
	321:06 technology, right?		
	321:07 A. Difficult for me to say exactly		
	321:08 what -- how Altria as a company would		
	321:09 characterize it.		
	321:10 You know, my understanding at		
	321:11 the time and had a strong point of view, is		
	321:12 that for adult smokers, noncombustion formats		
	321:13 were going to be very important to make		
	321:14 progress with harm reduction. When I say		
	321:15 noncombustion, formats that you don't combust		
	321:16 tobacco.		
	321:17 And having worked on a variety		
	321:18 of different formats, yes, I think technology		
	321:19 is really important for products that utilize		
	321:20 technology in order to deliver an experience		
	321:21 like cigarettes for adult smokers.		
	321:22 So that, I'm sure, was -- I		
	321:23 know for me that was a strong point of view		
	321:24 at the time, and -- but I just don't want to		
	321:25 speak for Altria in general.		
358:07 - 359:03	Crosthwaite, Kevin 2021-10-07_WIT	00:01:05	CK_v13.95
	358:07 Q. Now, you did personally take a		
	358:08 trip out to San Francisco to meet with JUUL's		
	358:09 founders in April of 2017, right?		
	358:10 A. I think I met with -- yes, I		
	358:11 did go to San Francisco. I don't remember		
	358:12 the exact -- the exact date. I had a chance		
	358:13 to meet the CEO of JUUL, Tyler, I think his		
	358:14 name, Goldman, at the time. And I met James		
	358:15 Monsees. But I did not at that time meet the		
	358:16 other founder.		
	358:17 Q. What do you recall about that		
	358:18 visit?		
	358:19 A. It was a -- there were two		
	358:20 other members of the Altria Group that were		
	358:21 there. I recall meeting Tyler and, you know,		
	358:22 talking with him about their business,		
	358:23 talking to him about was there ever a way the		

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DESIGNATION	SOURCE	DURATION	ID
	358:24 two companies could think about engaging 358:25 together. It was really an introductory 359:01 meeting, I think. I believe, at least for 359:02 me, that was the first time meeting someone 359:03 at JLI.		
359:04 - 359:19	Crosthwaite, Kevin 2021-10-07_WIT 359:04 Q. And at that time, what was your 359:05 intention for the meeting? What was your 359:06 goal? 359:07 A. Thinking back to that meeting, 359:08 it was really an introductory meeting. I 359:09 think we were just trying to better 359:10 understand, you know, who the people are at 359:11 JUUL and meet them and see if anything made 359:12 sense to talk about between me, the two 359:13 companies. 359:14 I don't think we had -- I don't 359:15 recall if there was a specific goal. Maybe 359:16 we were thinking about partnership ways or 359:17 ways we would invest in JUUL. It could have 359:18 been by then. I just don't recall the exact 359:19 timing.	00:00:34	CK_v13.96
365:03 - 365:16	Crosthwaite, Kevin 2021-10-07_WIT 365:03 Q. Okay. A lot of growth 365:04 happening in JUUL in 2018. Did that surprise 365:05 you based on what you had seen in early 2017, 365:06 when you last visited JUUL? 365:07 A. Yeah, I don't recall if I 365:08 visited them -- maybe it was early 2017. 365:09 Again, I'm getting the dates confused. 365:10 I think the growth that I saw 365:11 of JUUL was unlike other -- anything I had 365:12 seen for other alternatives to combustion 365:13 products in the market. So in that case, I 365:14 think the growth was surprising because I 365:15 hadn't seen anything resonate so much with an 365:16 adult smoker.	00:00:46	CK_v13.97
365:17 - 365:23	Crosthwaite, Kevin 2021-10-07_WIT 365:17 Q. Now, at that time, while you 365:18 were the CEO of Philip Morris USA, were you	00:00:22	CK_v13.98


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DESIGNATION	SOURCE	DURATION	ID
	365:19 concerned that JUUL's growth was going to cut 365:20 into your core business of combustible 365:21 cigarettes? 365:22 A. I don't recall being concerned, 365:23 you know, at PM USA.		
384:08 - 384:21	Crosthwaite, Kevin 2021-10-07_WIT 384:08 Q. And the success in converting 384:09 adult smokers, that was based on looking at, 384:10 one, the decline in cigarettes, and two, the 384:11 growth in JUUL, correct? 384:12 A. Well, also understanding how 384:13 the product was designed. And JUUL was 384:14 designed from the beginning to essentially 384:15 replace the use of a cigarette and offer a 384:16 cigarette-like experience. 384:17 That was -- while it's 384:18 difficult to read what's happening in the 384:19 moment, that was another factor in 384:20 understanding the impact that JUUL could have 384:21 to convert adult smokers.	00:00:37	CK_v13.99
386:04 - 386:09	Crosthwaite, Kevin 2021-10-07_WIT 386:04 Q. Are you aware of Altria doing 386:05 any studies to look at whether the growth it 386:06 was seeing in JUUL might have come from some 386:07 other source than just cigarette smokers? 386:08 A. I'm not aware of the studies 386:09 that they have done or they would have done.	00:00:17	CK_v13.100
426:12 - 426:16	Crosthwaite, Kevin 2021-10-08_WIT 426:12 Q. Now, at the end of the day, 426:13 Altria moved forward and closed the deal with 426:14 JUUL's -- with JUUL's investors because it 426:15 would pay off handsomely for Altria and for 426:16 JUUL's investors, right?	00:00:15	CK_v13.101
426:18 - 427:05	Crosthwaite, Kevin 2021-10-08_WIT 426:18 A. Yeah, I don't know -- I don't 426:19 know if I would use the word "pay off 426:20 handsomely." I know Altria, when they made 426:21 their investment, thought it was a good 426:22 strategic investment for their company, and I	00:00:29	CK_v13.102





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DESIGNATION	SOURCE	DURATION	ID
	426:23 believe that the JUUL shareholders thought it		
	426:24 was a good investment for JUUL as well.		
	426:25 BY MS. LONDON:		
	427:01 Q. When you say a good investment		
	427:02 for JUUL, all the money went to the		
	427:03 investors, though, right?		
	427:04 A. Yes. I think all but a small		
	427:05 portion of the money went to shareholders.		
428:04 - 428:06	Crosthwaite, Kevin 2021-10-08_WIT	00:00:07	CK_v13.103
	428:04 Altria paid JUUL's investors		
	428:05 the money right upon close, right?		
	428:06 A. Correct.		
429:06 - 429:09	Crosthwaite, Kevin 2021-10-08_WIT	00:00:10	CK_v13.104
	429:06 Q. Is it your testimony,		
	429:07 Mr. Crosthwaite, that JUUL made a completely		
	429:08 independent decision to hire you as CEO?		
	429:09 A. That is my testimony.		
429:17 - 430:05	Crosthwaite, Kevin 2021-10-08_WIT	00:00:37	CK_v13.105
	429:17 Q. And Altria had nothing to do		
	429:18 with the decision. Is that your testimony?		
	429:19 A. They certainly had nothing -- I		
	429:20 can tell you from myself personally, nothing		
	429:21 do with my decision, and I believe that the		
	429:22 JLI board made an independent decision to		
	429:23 hire me.		
	429:24 Q. Is it your testimony that		
	429:25 Altria did not have any influence over JUUL's		
	430:01 decision to fire Kevin Burns?		
	430:02 A. I do not believe Altria		
	430:03 influenced the independent decision that I		
	430:04 think the JLI board made at the time of the		
	430:05 CEO transition.		
430:06 - 430:10	Crosthwaite, Kevin 2021-10-08_WIT	00:00:11	CK_v13.106
	430:06 Q. In January of 2019 you became a		
	430:07 board observer on behalf of Altria to JUUL's		
	430:08 board?		
	430:09 A. Yes, I think shortly after the		
	430:10 transaction closed.		
430:11 - 430:20	Crosthwaite, Kevin 2021-10-08_WIT	00:00:26	CK_v13.107




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DESIGNATION	SOURCE	DURATION	ID
	430:11 Q. And as observer, your goal was		CK_v13.107
	430:12 to help guide the strategic direction of JUUL		
	430:13 to your best ability to do so given that you		
	430:14 were just an observer and not a full board		
	430:15 member, right?		
	430:16 A. Yes, I was an observer. There		
	430:17 were certain information rights that I could		
	430:18 hear, and then there's a lot of the strategic		
	430:19 conversations that the observer status wasn't		
	430:20 entitled to be a part of.		
430:21 - 431:06	Crosthwaite, Kevin 2021-10-08_WIT	00:00:24	CK_v13.108
	430:21 Q. Right. But as far as your		
	430:22 ability to provide strategic guidance, that		
	430:23 was one of your jobs as the board observer,		
	430:24 at least from Altria's perspective, that you		
	430:25 could provide some strategic guidance to		
	431:01 JUUL's board, right?		
	431:02 A. I could offer perspective on		
	431:03 business, share my point of view. I wasn't		
	431:04 able to vote, and like I said, there were		
	431:05 also several strategic topics that just the		
	431:06 observer seat is not authorized to be in.		
456:17 - 457:01	Crosthwaite, Kevin 2021-10-08_WIT	00:00:20	CK_v13.109
	456:17 BY MS. LONDON:		
 CROSTHWAITE E45037.1.1	456:18 Q. Mr. Crosthwaite, I'm showing		
	456:19 you what's been marked as Exhibit 45037.		
	456:20 This is an e-mail from Kristen Killea to		
	456:21 yourself on May 21st of 2019.		
	456:22 Do you see that?		
	456:23 A. Yes, I do.		
	456:24 Q. And the subject is PMTA		
	456:25 Analysis.		
	457:01 A. Yes.		
460:14 - 460:16	Crosthwaite, Kevin 2021-10-08_WIT	00:00:10	CK_v13.110
	460:14 Q. Okay. Now, if you can go then		
	460:15 to -- the next couple of scenarios, if you		
 CROSTHWAITE E45037.16.1	460:16 move to page 8 of this document. So Altria		

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DESIGNATION	SOURCE	DURATION	ID
460:17 - 460:23	Crosthwaite, Kevin 2021-10-08_WIT	00:00:18	CK_v13.111
 CROSTHWAITE45037.16.2	460:17 also modeled a couple of scenarios. Scenario		
	460:18 1 is the JUUL PMTA is rejected.		
	460:19 Do you see that?		
	460:20 A. I see the title.		
	460:21 Q. And it goes through some of		
	460:22 Altria's considerations in that event.		
	460:23 Do you see it?		
461:02 - 461:14	Crosthwaite, Kevin 2021-10-08_WIT	00:00:20	CK_v13.112
 CROSTHWAITE45037.16.3	461:02 A. I see that.		
	461:03 BY MS. LONDON:		
	461:04 Q. So under Scenario 1, if JUUL's		
	461:05 PMTA is rejected, Altria's investor		
	461:06 narrative, number one is that the JUUL		
 CROSTHWAITE45037.16.4	461:07 investment was a hedge.		
	461:08 Do you see that?		
	461:09 A. I see that.		
	461:10 Q. And that the loss of future		
	461:11 JUUL income compensated for other tobacco		
	461:12 business.		
	461:13 Do you see that?		
464:06 - 464:08	Crosthwaite, Kevin 2021-10-08_WIT	00:00:05	CK_v13.113
 Clear	464:06 Q. we talked a		
	464:07 little bit about James Wappler yesterday, but		
	464:08 I want to go back to him for a moment.		
464:09 - 464:16	Crosthwaite, Kevin 2021-10-08_WIT	00:00:26	CK_v13.114
	464:09 Mr. Wappler, he was at Perella		
	464:10 Weinberg Partners, right?		
	464:11 A. He was. I believe he still is.		
	464:12 I'm not sure, but yes, at Perella Weinberg.		
	464:13 Q. And Perella Weinberg, they were		
	464:14 an advisor to Altria, right?		
	464:15 A. Yes, Perella Weinberg provided		
	464:16 advice and investment support for Altria.		
465:04 - 465:12	Crosthwaite, Kevin 2021-10-08_WIT	00:00:21	CK_v13.115

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DESIGNATION	SOURCE	DURATION	ID
	465:04 Mr. Wappler, he helped you		CK_v13.115
	465:05 prepare for some discussions with JUUL about		
	465:06 a potential leadership role at the company,		
	465:07 right?		
	465:08 A. I can recall -- I had become		
	465:09 very friendly with James over the years --		
	465:10 asking his advice on what I would -- if it		
	465:11 would be a good idea for me to do or not to.		
	465:12 I can remember discussing that with him.		
483:04 - 483:09	Crosthwaite, Kevin 2021-10-08_WIT	00:00:18	CK_v13.116
 CROSTHWAITE45039.1.3	483:04 Q. I'm showing you		
	483:05 what's been marked as Exhibit 45039. This is		
 CROSTHWAITE45039.1.4	483:06 an e-mail from you to Mr. Wappler on Sunday,		
	483:07 July 21st, 2019.		
	483:08 Do you see that?		
	483:09 A. Yes, I see that.		
483:10 - 483:21	Crosthwaite, Kevin 2021-10-08_WIT	00:00:30	CK_v13.117
	483:10 Q. And included in this e-mail is		
	483:11 David Wise. He reports to you at Altria at		
	483:12 this time, right?		
	483:13 A. I believe David Wise at this		
	483:14 time reported to Liz Mountjoy, I believe.		
	483:15 Q. And Liz Mountjoy reported to		
	483:16 you, correct?		
	483:17 A. Correct.		
	483:18 Q. And the subject is a scanned		
	483:19 document from Kevin C. Crosthwaite.		
	483:20 You see that?		
	483:21 A. I see that.		
483:25 - 484:02	Crosthwaite, Kevin 2021-10-08_WIT	00:00:07	CK_v13.118
 CROSTHWAITE45039.1.5	483:25 Q. And you write to Mr. Wappler		
	484:01 and Mr. Wise, you say: Good start. I made a		
	484:02 few suggested edits.		
484:03 - 484:06	Crosthwaite, Kevin 2021-10-08_WIT	00:00:06	CK_v13.119
	484:03 let's try and be specific in our action		
	484:04 items.		

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DESIGNATION	SOURCE	DURATION	ID
	484:05 Do you see that?		
	484:06 A. I see that.		
484:18 - 485:01	Crosthwaite, Kevin 2021-10-08_WIT	00:00:15	CK_v13.120
 CROSTHWAITE45039.2.5	484:18 It says: First and foremost,		
	484:19 as a public service announcement, quote, I'm		
	484:20 speaking as an individual today; I'm not		
	484:21 speaking on behalf of Altria.		
	484:22 That's what you say here,		
	484:23 right?		
	484:24 A. Yeah, I don't -- I don't think		
	484:25 I actually wrote this document, but that is		
	485:01 what it says.		
485:02 - 485:04	Crosthwaite, Kevin 2021-10-08_WIT	00:00:06	CK_v13.121
 CROSTHWAITE45039.2.7	485:02 Q. Okay. Well, then let's go down		
	485:03 to the one, two, three, four, five, sixth		
	485:04 bullet point.		
485:05 - 485:08	Crosthwaite, Kevin 2021-10-08_WIT	00:00:14	CK_v13.122
 CROSTHWAITE45039.2.6	485:05 It says: I believe JUUL is a		
	485:06 phenomenal technology company. And then in		
	485:07 handwriting it says: This was why I pushed		
	485:08 so hard to invest -- 12.8 B.		
485:09 - 485:12	Crosthwaite, Kevin 2021-10-08_WIT	00:00:04	CK_v13.123
	485:09 Do you see that?		
	485:10 A. I do see that.		
	485:11 Q. That's your handwriting, right?		
	485:12 A. It is.		
485:13 - 485:16	Crosthwaite, Kevin 2021-10-08_WIT	00:00:12	CK_v13.124
	485:13 Q. So you were marking up a draft		
	485:14 of comments, and then you scanned them back		
	485:15 to Mr. Wappler and Mr. Wise, right?		
	485:16 A. I think that's correct.		
485:17 - 485:21	Crosthwaite, Kevin 2021-10-08_WIT	00:00:09	CK_v13.125
	485:17 Q. Okay. So if you didn't agree		
	485:18 with something on here, you could have		
	485:19 crossed it out, right?		
	485:20 A. Sure, that's absolutely		


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DESIGNATION	SOURCE	DURATION	ID
	485:21 possible.		
486:08 - 486:10	Crosthwaite, Kevin 2021-10-08_WIT	00:00:08	CK_v13.126
 CROSTHWAITE45039.7.2	486:08 if you turn to		
	486:09 the very last page of the vision portion of		
	486:10 the document at the bottom of 96161, you'll		
486:11 - 486:16	Crosthwaite, Kevin 2021-10-08_WIT	00:00:18	CK_v13.127
 CROSTHWAITE45039.7.3	486:11 see that it says: My vision would be to turn		
	486:12 JUUL into a Marlboro of next-gen products,		
	486:13 resulting in a \$200 billion company, maybe		
	486:14 more.		
	486:15 That's what it says, right?		
	486:16 A. That's what that says.		
494:13 - 494:20	Crosthwaite, Kevin 2021-10-08_WIT	00:00:26	CK_v13.128
 Clear	494:13 Q. Now, you worked -- you worked		
	494:14 on developing some press release materials		
	494:15 announcing your position as CEO at JUUL back		
	494:16 in July of 2019, right?		
	494:17 A. I remember asking -- much as I		
	494:18 did with James and David -- for advice on how		
	494:19 something like that could even be talked		
	494:20 about.		
495:22 - 496:03	Crosthwaite, Kevin 2021-10-08_WIT	00:00:15	CK_v13.129
 CROSTHWAITE45041.1.1	495:22 BY MS. LONDON:		
	495:23 Q. Mr. Crosthwaite, I've marked		
 CROSTHWAITE45041.1.2	495:24 the next numbered exhibit as 45041. This is		
	495:25 an e-mail from Carina Davidson at Abernathy		
	496:01 MacGregor to you, Monday, July 22nd, 2019.		
	496:02 Do you see that?		
	496:03 A. I see that.		
496:04 - 496:12	Crosthwaite, Kevin 2021-10-08_WIT	00:00:21	CK_v13.130
 CROSTHWAITE45041.1.3	496:04 Q. It says: K.C., please see		
	496:05 attached revised versions of the press		
	496:06 release and letter, which include the changes		
	496:07 and additions we discussed. I also toned		


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DESIGNATION	SOURCE	DURATION	ID
	496:08 down the language re: Kevin.		
	496:09 Do you see that?		
	496:10 A. I see that.		
 CROSTHWAITE45041.2.1	496:11 Q. And if you go to the next page,		
	496:12 you'll see that it's a -- looks like a press		
496:13 - 496:19	Crosthwaite, Kevin 2021-10-08_WIT	00:00:17	CK_v13.131
 CROSTHWAITE45041.2.2	496:13 release draft. It says: JUUL Labs Inc.		
	496:14 Names K.C. Crosthwaite Chief Executive		
	496:15 Officer.		
	496:16 Do you see that?		
	496:17 A. I see that.		
 CROSTHWAITE45041.4.1	496:18 Q. And then if you go on to Bates		
	496:19 number, bottom, 410670, it's a draft note to		
496:20 - 497:01	Crosthwaite, Kevin 2021-10-08_WIT	00:00:17	CK_v13.132
 CROSTHWAITE45041.4.2	496:20 employees. And it says: Team, we're pleased		
	496:21 to announce that the board of directors of		
	496:22 JUUL has unanimously appointed		
	496:23 K.C. Crosthwaite to become the company's new		
	496:24 CEO.		
	496:25 Do you see that?		
	497:01 A. I see that.		
501:04 - 501:07	Crosthwaite, Kevin 2021-10-08_WIT	00:00:11	CK_v13.133
	501:04 Q. At this time in July of 2019,		
	501:05 you were still working on a potential merger		
	501:06 with Philip Morris International, right?		
	501:07 A. In July, yes, I believe I was.		
501:08 - 501:22	Crosthwaite, Kevin 2021-10-08_WIT	00:00:44	CK_v13.134
 Clear	501:08 Q. Did you discuss at all in		
	501:09 your -- in any of your conversations with		
	501:10 Nick Pritzker or Riaz Valani about a		
	501:11 potential merger with Philip Morris		
	501:12 International?		
	501:13 A. I don't recall if we did. I		
	501:14 don't recall.		
	501:15 Q. Now, you did have a dinner,		

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DESIGNATION	SOURCE	DURATION	ID
	501:16 right, with leadership from Philip Morris		
	501:17 International and with Nick Pritzker and Riaz		
	501:18 Valani in San Francisco, correct?		
	501:19 A. Yes, we had a dinner. I think		
	501:20 there was a couple of members from Philip		
	501:21 Morris International at that dinner. I don't		
	501:22 remember the exact date of the dinner though.		
504:18 - 504:20	Crosthwaite, Kevin 2021-10-08_WIT	00:00:07	CK_v13.135
	504:18 Q. And Philip Morris wanted to see		
	504:19 JUUL's management change as part of the		
	504:20 merger, right?		
504:23 - 505:03	Crosthwaite, Kevin 2021-10-08_WIT	00:00:13	CK_v13.136
	504:23 A. Yeah, I know that, I think,		
	504:24 Philip Morris had a point of view, and I		
	504:25 don't want to speak for them about JUUL		
	505:01 leadership, but I don't recall it being --		
	505:02 how it related to the merger happening or not		
	505:03 happening.		
507:02 - 507:13	Crosthwaite, Kevin 2021-10-08_WIT	00:00:34	CK_v13.137
	507:02 Q. Did you discuss with Philip		
	507:03 Morris International that you would be --		
	507:04 excuse me, that Kevin Burns would be leaving		
	507:05 as CEO and there would be a new CEO at JUUL?		
	507:06 A. I don't recall exactly the		
	507:07 discussions that I had with Philip Morris		
	507:08 International -- others could have -- about		
	507:09 leadership at JUUL.		
	507:10 Philip Morris International was		
	507:11 clearly expressing their concerns about		
	507:12 leadership at JUUL, so I just don't recall		
	507:13 exactly, you know, what was said and when.		
507:21 - 508:13	Crosthwaite, Kevin 2021-10-08_WIT	00:00:35	CK_v13.138
	507:21 BY MS. LONDON:		
 CROSTHWAITE E45044.1.1	507:22 Q. So I'm showing you what's been		
 CROSTHWAITE E45044.1.2	507:23 marked as 45044. This is an e-mail from you		
	507:24 to Mr. Garnick on Friday, September the 13th,		
	507:25 2019.		

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DESIGNATION	SOURCE	DURATION	ID
 CROSTHWAITE E45044.1.3	508:01 Do you see that?		
	508:02 A. I see it.		
	508:03 Q. And this is a message that you		
	508:04 forwarded from Ms. Salzman at Philip Morris		
	508:05 International, correct?		
	508:06 A. Yes, I see that.		
	508:07 Q. And the subject of her e-mail		
	508:08 to you was draft plan for CEO switch,		
	508:09 Jupiter.		
	508:10 Do you see that?		
	508:11 A. I see that.		
	508:12 Q. Jupiter is JUUL, right?		
	508:13 A. Yes, I believe so.		
528:06 - 528:15	Crosthwaite, Kevin 2021-10-08_WIT	00:00:20	CK_v13.139
 Clear	528:06 Q. when		
	528:07 you went to JUUL, you brought Joe Murillo		
	528:08 with you from Altria, correct?		
	528:09 A. So when I joined JUUL, I did		
	528:10 offer Joe Murillo a role, a very important		
	528:11 role, at JLI.		
	528:12 Q. He became part of JUUL's		
	528:13 leadership team?		
	528:14 A. Joe is part of JUUL's		
	528:15 leadership team.		
529:07 - 529:12	Crosthwaite, Kevin 2021-10-08_WIT	00:00:09	CK_v13.140
	529:07 BY MS. LONDON:		
	529:08 Q. Mr. Crosthwaite, you made the		
	529:09 decision for JUUL to stop mint sales in		
	529:10 November of 2019, right?		
	529:11 A. Yes, I think it was		
	529:12 November 2019.		
529:13 - 530:13	Crosthwaite, Kevin 2021-10-08_WIT	00:01:15	CK_v13.141
	529:13 Q. Can you tell me what led up to		
	529:14 that decision?		
	529:15 A. Yeah. So at that time, I was,		
	529:16 I think, two months into the job, and we had		
	529:17 gotten new information from an external		
	529:18 tracking study. I believe it's called		
	529:19 Monitoring the Future, and I saw at that time		

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DESIGNATION	SOURCE	DURATION	ID
	529:20 that mint was a very, you know, attractive		
	529:21 flavor that youth were getting access to		
	529:22 across the category, and we had set out --		
	529:23 from my first day, I did, on, you know,		
	529:24 taking steps that I thought we could take to		
	529:25 help deal with this issue.		
	530:01 So when that data came out, it		
	530:02 was a very difficult decision for the		
	530:03 company, but that's when I decided to pull		
	530:04 it.		
	530:05 Q. Now, is it your testimony that		
	530:06 the first time that you saw that youth were		
	530:07 getting access to mint was in November of		
	530:08 2019?		
	530:09 A. No, it was a particular study		
	530:10 in November '19 that I saw that broke out		
	530:11 more detail and brand detail, I believe, that		
	530:12 I felt at that time when I saw that		
	530:13 information, that we needed to pull it.		
530:14 - 530:20	Crosthwaite, Kevin 2021-10-08_WIT	00:00:23	CK_v13.142
	530:14 Q. But you had seen data going		
	530:15 back to the fall of 2018 showing that youth		
	530:16 were getting access to mint products, right?		
	530:17 A. Yeah, I think the data in 2018,		
	530:18 you know, showed that flavored products		
	530:19 generally, youth were getting access to,		
	530:20 including mint.		
531:02 - 531:09	Crosthwaite, Kevin 2021-10-08_WIT	00:00:22	CK_v13.143
	531:02 Q. Yeah. The third quarter of		
	531:03 2018, you were aware that the sales of mint		
	531:04 and menthol made up more than a third of		
	531:05 JUUL's business?		
	531:06 A. I'd say I was generally aware.		
	531:07 I don't remember exactly the percentage then,		
	531:08 but mint was a -- is a large part of the		
	531:09 portfolio -- or was, of JUUL.		
538:22 - 539:03	Crosthwaite, Kevin 2021-10-08_WIT	00:00:14	CK_v13.144
	538:22 BY MS. LONDON:		
 CROSTHWAITE	538:23 Q. So I'm going to show you what's		
E45047.1.1			


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DESIGNATION	SOURCE	DURATION	ID
 CROSTHWAITE45047.1.2	538:24	been marked as 45047, and this is an e-mail	
	538:25	from Richard Farrell to you on February 8th	
	539:01	of 2019.	
	539:02	Do you see that?	
	539:03	A. I see that.	
539:04 - 539:06	Crosthwaite, Kevin 2021-10-08_WIT		00:00:07 CK_v13.145
	539:04	Q. And its subject is February	
	539:05	E-Vapor Business Update?	
	539:06	A. Yes, I see that.	
539:13 - 539:19	Crosthwaite, Kevin 2021-10-08_WIT		00:00:15 CK_v13.146
 CROSTHWAITE45047.1.3	539:13	Q. Okay. So by February of 2019,	
	539:14	one of the key takeaways is that prevalence	
	539:15	trends for e-vapor continue to be strong.	
	539:16	Correct?	
	539:17	A. That is what the -- you're	
	539:18	referring to the sentence there? Yes, that's	
	539:19	what it says.	
540:03 - 540:09	Crosthwaite, Kevin 2021-10-08_WIT		00:00:15 CK_v13.147
 CROSTHWAITE45047.1.4	540:03	Q. And then below in the next	
	540:04	bullet point, three down, it says:	
	540:05	Approximately 75% of JUUL blend volume has	
	540:06	shifted to JUUL mint/menthol at retail at	
	540:07	this time.	
	540:08	Do you see that?	
	540:09	A. Yes, I see that.	
540:13 - 540:22	Crosthwaite, Kevin 2021-10-08_WIT		00:00:32 CK_v13.148
	540:13	Q. Now, at that time, did you	
	540:14	consider telling JUUL, in your role as board	
	540:15	observer, hey, you might want to think about	
	540:16	being careful with mint?	
	540:17	A. I think the conversation, from	
	540:18	my recollection as a board observer in 2019,	
	540:19	is the company was trying to be careful with	
	540:20	everything, not just mint. There was a lot	
	540:21	of attention towards addressing the issue	
	540:22	where youth were getting access to e-vapor.	

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DESIGNATION	SOURCE	DURATION	ID
540:23 - 541:15	Crosthwaite, Kevin 2021-10-08_WIT 540:23 Q. did 540:24 you tell JUUL that they should take mint off 540:25 the market when you saw this report in 541:01 February of 2019? 541:02 A. At that time in -- I did not 541:03 say to take mint off the market. 541:04 Q. And instead, you were focused 541:05 on making sure that the company kept mint and 541:06 menthol packs in stock, right? 541:07 A. I don't recall having that -- 541:08 having that particular conversation. I think 541:09 generally, you know, having their product 541:10 available in retail stores was important to 541:11 do. 541:12 So there could have been a 541:13 conversation about the brand's distribution 541:14 or retail store coverage. I just don't 541:15 remember the specifics that you mentioned.	00:00:46	CK_v13.149
544:08 - 544:14  Clear	Crosthwaite, Kevin 2021-10-08_WIT 544:08 Q. you 544:09 acknowledge that youth usage rates had 544:10 escalated and become completely unacceptable, 544:11 right? 544:12 A. Are we talking now about when I 544:13 was CEO? 544:14 Q. Yes.	00:00:15	CK_v13.150
544:15 - 544:23	Crosthwaite, Kevin 2021-10-08_WIT 544:15 A. Yes, that was my view as -- 544:16 starting as CEO of JUUL Labs. 544:17 Q. When you came -- when you 544:18 became CEO in September of 2019, you could 544:19 have pulled mint from the market at that 544:20 time, right? 544:21 A. On that -- on that day? 544:22 Q. Yeah. 544:23 A. That's possible, I could have.	00:00:26	CK_v13.151
545:16 - 545:22	Crosthwaite, Kevin 2021-10-08_WIT 545:16 Q. But you don't recall at any 545:17 point in time when you were at Altria, Altria	00:00:16	CK_v13.152



CK_v13 - CROSTHWAITE, KEVIN SFUSD FINAL_PLAYED 04-27-23

DESIGNATION	SOURCE	DURATION	ID
	545:18 telling JUUL, hey, you should remove mint or 545:19 menthol? 545:20 A. I don't recall Altria 545:21 communicating to JUUL to remove mint and 545:22 menthol.		
547:09 - 547:13	Crosthwaite, Kevin 2021-10-08_WIT 547:09 Q. Now, you took mint off the 547:10 market at that point and stopped the online 547:11 sale of fruit and dessert flavors, correct? 547:12 A. Yeah, at that time in November, 547:13 yes.	00:00:13	CK_v13.153
553:01 - 553:05	Crosthwaite, Kevin 2021-10-08_WIT	00:00:03	CK_v13.154
 CROSTHWAITE45050.1.1	553:01 Q. Let me pull up AD2. 553:02 (Whereupon, Deposition Exhibit 553:03 Crosthwaite-45050, Demonstrative, 553:04 Excerpt from Letter to FDA re: PMTA, 553:05 was marked for identification.)		
553:06 - 553:06	Crosthwaite, Kevin 2021-10-08_WIT 553:06 THE STENOGRAPHER: 45050.	00:00:01	CK_v13.155
553:07 - 553:19	Crosthwaite, Kevin 2021-10-08_WIT 553:07 BY MS. LONDON: 553:08 Q. So from January 26th, 2020 to 553:09 December 27th, 2020, sales of 553:10 menthol-flavored cartridge-based products 553:11 like JUUL increased by 62% over this same 553:12 time. 553:13 That's what it says, right? 553:14 A. That is what this says. 553:15 Q. Menthol is now the top-selling 553:16 e-cigarette flavor comprising 42% of the 553:17 market as of December 2020, correct? 553:18 A. That is what this paragraph 553:19 says.	00:00:32	CK_v13.156
559:01 - 559:10	Crosthwaite, Kevin 2021-10-08_WIT 559:01 BY MS. LONDON: 559:02 Q. Okay. And you're aware that 559:03 the FDA has concluded in 2013 that menthol 559:04 increases the number of teens who start	00:00:20	CK_v13.157

CK_v13 - CROSTHWAITE, KEVIN SFUSD FINAL_PLAYED 04-27-23

DESIGNATION	SOURCE	DURATION	ID
	559:05 smoking and become regular users, right?		
	559:06 A. I don't remember exactly what		
	559:07 they said in 2013. I have no reason to		
	559:08 disagree with what you're saying. I just		
	559:09 don't recall exactly what you're referring		
	559:10 to.		
570:02 - 571:02	Crosthwaite, Kevin 2021-10-08_WIT	00:01:06	CK_v13.158
 Clear	570:02 Q. Mr. Crosthwaite, you told me		
	570:03 you worked on Marlboro Smooth and Marlboro		
	570:04 Mild, correct?		
	570:05 A. I do remember working on		
	570:06 Marlboro Smooth and, yes, Marlboro Mild was		
	570:07 in the portfolio at Philip Morris USA.		
	570:08 Q. So you worked on products that		
	570:09 were designed to reduce the harshness of		
	570:10 smoke, right?		
	570:11 A. I think we worked on products		
	570:12 that we thought would be designed where a		
	570:13 menthol smoker would like that product versus		
	570:14 another product.		
	570:15 Q. You designed products that		
	570:16 would have a, quote, cooling effect, right?		
	570:17 A. Are you referring to menthol --		
	570:18 menthol cigarettes in particular?		
	570:19 Q. Yes.		
	570:20 A. Yeah, I think menthol as a		
	570:21 flavor can have a cooling effect.		
	570:22 Q. And you personally worked on a		
	570:23 product called Marlboro Ice that was designed		
	570:24 to emphasize a cooling experience, right?		
	570:25 A. I do remember the Marlboro Ice		
	571:01 product being in the portfolio, and I can't		
	571:02 recall exactly how it was communicated.		
572:24 - 573:03	Crosthwaite, Kevin 2021-10-08_WIT	00:00:02	CK_v13.159
 CROSTHWAITE E45056.1.1	572:24 Q. Let's put up Demonstrative Z.		
	572:25 (Whereupon, Deposition Exhibit		
	573:01 Crosthwaite-45056, Demonstrative, CDC		
	573:02 Webpage, Menthol and Cigarettes, was		
	573:03 marked for identification.)		

CK_v13 - CROSTHWAITE, KEVIN SFUSD FINAL_PLAYED 04-27-23

DESIGNATION	SOURCE	DURATION	ID
573:06 - 573:16	Crosthwaite, Kevin 2021-10-08_WIT	00:00:23	CK_v13.160
 CROSTHWAITE E45056.1.3	573:06 Q. Now, the CDC, that's one of the 573:07 organizations that JUUL refers -- defers to 573:08 their expertise on matters of smoking and 573:09 health, right? 573:10 A. Yes. 573:11 Q. And the CDC there concludes, 573:12 under Menthol and Cigarettes, it says: 573:13 Tobacco companies add menthol to make 573:14 cigarettes seem less harsh and more appealing 573:15 to new smokers and young people. 573:16 That's what it says, right?		
573:19 - 573:19	Crosthwaite, Kevin 2021-10-08_WIT	00:00:01	CK_v13.161
	573:19 A. Yeah.		
582:02 - 582:04	Crosthwaite, Kevin 2021-10-08_WIT	00:00:03	CK_v13.162
 Clear	582:02 MS. LONDON: Thank you, 582:03 Mr. Crosthwaite. Those are all the 582:04 questions I have for you.		

PLF AFFIRMATIVE	00:42:58
DEF COUNTER	00:07:43
TOTAL RUN TIME	00:50:41



Documents linked to video:

CROSTHWAITE45004
 CROSTHWAITE45005
 CROSTHWAITE45009
 CROSTHWAITE45015
 CROSTHWAITE45018
 CROSTHWAITE45019
 CROSTHWAITE45026
 CROSTHWAITE45028
 CROSTHWAITE45037
 CROSTHWAITE45039



CROSTHWAITE45041

CROSTHWAITE45044

CROSTHWAITE45047

CROSTHWAITE45050

CROSTHWAITE45056

EXHIBIT 2

[Submitting Counsel on Signature Page]

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

**IN RE JUUL LABS, INC.,
MARKETING, SALES PRACTICES,
AND PRODUCTS LIABILITY
LITIGATION**

Case No. 19-md-02913-WHO

**JOINT STIPULATION IDENTIFYING
TRIAL EXHIBITS USED IN THE
VIDEOTAPED DEPOSITION OF KEVIN
CROSTHWAITE PLAYED AT TRIAL**

This Document Relates to:

***San Francisco Unified School District v.
Juul Labs, Inc. et al., Case No. 3:19-cv-
08177***

WHEREAS, Plaintiff called Kevin Crosthwaite, whose videotaped deposition was played to the jury.

WHEREAS, the exhibit numbers in the videotaped deposition are different from the Trial Exhibit numbers.

WHEREAS, to most efficiently clarify the record, the parties, by and through their undersigned counsel, hereby stipulate and agree that the chart below accurately reflects the deposition exhibits introduced during the videotaped testimony of Kevin Crosthwaite and the corresponding Trial Exhibit Numbers¹:

¹ The parties reserve all objections regarding these exhibits.

DEPOSITION EXHIBIT NUMBER	TRIAL EXHIBIT NUMBER
Crosthwaite Exhibit 45004	Trial Exhibit 475
Crosthwaite Exhibit 45005	Trial Exhibit 476
Crosthwaite Exhibit 45009	Trial Exhibit 480
Crosthwaite Exhibit 45015	Trial Exhibit 486
Crosthwaite Exhibit 45018	Trial Exhibit 488
Crosthwaite Exhibit 45019	Trial Exhibit 489
Crosthwaite Exhibit 45026	Trial Exhibit 496
Crosthwaite Exhibit 45028	Trial Exhibit 498
Crosthwaite Exhibit 45037	Trial Exhibit 506
Crosthwaite Exhibit 45039	Trial Exhibit 507
Crosthwaite Exhibit 45041	Trial Exhibit 509
Crosthwaite Exhibit 45044	Trial Exhibit 512
Crosthwaite Exhibit 45047	Trial Exhibit 515
Crosthwaite Exhibit 45050	Trial Exhibit 519
Crosthwaite Exhibit 45056	Trial Exhibit 525

Respectfully submitted,

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